

REMARKS

INTRODUCTION

In accordance with the foregoing, claim 1 has been amended, claims 30-36 have been canceled, and claim 29 has been previously cancelled. As such, no new matter is being presented, and approval and entry are respectfully requested. Therefore, claims 1-28 are pending and under consideration. Reconsideration is respectfully requested.

ENTRY OF RESPONSE UNDER 37 C.F.R. §1.116

Applicant requests entry of this Rule 116 Response and Request for Reconsideration because it is believed that the amendment of claim 1 places this application into condition for allowance and should not require any further search by the Examiner. The amendment was not earlier presented because the Applicant believed in good faith that the cited prior art did not disclose the present invention as previously claimed.

The Manual of Patent Examining Procedures sets forth in §714.12 that "any amendment that would place the case either in condition for allowance or in better form for appeal may be entered." Moreover, §714.13 sets forth that "the Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedures further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

REJECTION UNDER 35 U.S.C. §102

In the Office Action, in numbered paragraph(s), 2-3, claims 1-2 and 28 were rejected under 35 U.S.C. §102 in view of Kim et al. (U.S. Patent No. 6,405,372). This rejection is traversed and reconsideration is requested.

Initially, applicant notes that claim 1 has been amended and now recites, "the remaining program guide information is acquired according to a selectively prioritized channel search." This amendment highlights the fact that, according to the presently claimed invention, the prioritized channel search, at least initially, only searches through a selection of channels. How

that selection is determined could be based on many factors, one example being that the selection comprises those channels immediately numerically above and below the currently tuned in channel. *See the specification, page 5, line 29 – page 6, line 6.* As a result, the delay of searching through an unnecessarily large number of channels to retrieve EPG information is avoided.

Kim, on the other hand, discloses automatically searching **all the channels** to identify EPG information about each channel from auxiliary data separated by the second TS decoder 114, and to update EPG information in the memory 118. Thus, where the presently claimed invention avoids the delay of searching through an unnecessarily large number of channels, Kim fails to avoid the delay.

Therefore, applicant respectfully asserts that claim 1 patentably distinguishes over the reference to Kim and, thus, is believed to be allowable.

Regarding the rejection of claim 2, it is noted that claim 2 is dependent on claim 1 and therefore allowable for at least the reasons discussed above.

Regarding the rejection of claim 28, it is noted that claim 28 recites similar subject matter as claim 1, and is therefore allowable for at least the reasons set forth above with respect to the allowability of claim 1.

REJECTION UNDER 35 U.S.C. §103

In the Office Action, in numbered paragraph(s) 4-9, claims 3-27 were rejected under 35 U.S.C. §103 in view of Cuccia and Kim, and, in the case of claims 11, 16, 17, and 24, further in view of Saitoh (U.S. Patent No. 5,444,499), and, in the case of claims 18 and 25, further in view of Magura et al. (U.S. Patent No. 6,243,142 B1). However, applicants note that the reference to Kim was commonly owned at the time of the invention of the present application. Evidence, as requested by the Examiner, is being submitted concurrently herewith in the form of the '372 patent, which states on the first page that it is assigned to Samsung, and the assignment data in the PAIR database showing that the executed assignment papers were in the Kim application that show that the application was assigned to Samsung were recorded on June 22, 1998. Of course, this is well ahead of the date the present invention was made, September 30, 1998, as required by 35 U.S.C. 103(c). Therefore, according to 35 U.S.C.

103(c), Kim may not be used as a prior art reference. Thus, since the references to Cuccia, Saitoh, and Magura fail to cure the deficiencies created by the absence of Kim, claims 3-27 are believed to be allowable.

CONCLUSION

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited. At a minimum, this Amendment should be entered at least for purposes of Appeal as it either clarifies and/or narrows the issues for consideration by the Board.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited and possibly concluded by the Examiner contacting the undersigned attorney for a telephone interview to discuss any such remaining issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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